(1) (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

MISC APPEAL NO. 213 OF 2006 **Single Bench**

APPELLANT: Bhupebdra pandey S/o Shri Sunder Lal Pandey, aged about 34 years, r/o.Civil lines near High School Balouda Bazar, Distt.- Raipur (C.G.)

VERSUS

RESPONDENTS. 1. Smt. Saroj Pandey W/o Bhupendra Pandey aged about 31 years,

2. Ku. Anjali Pandey aged about 6 years D/o. Bhupendra Pandey Minor through natural Guardian, Mother Saroj Pandey, R/o. Village- Lata, Post Siriyadih, P.S.-Kasdol,Distt.- Raipur (CG).

P.R. No. 4/6/06
Presented by Shri Sunil Sahu
Clerk 19/12/06

MEMO RANDUM OF APPEAL UNDER SECTION 47 OF GUARDIAN & WARDS ACT.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक MA 213/ सन् 2006

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	17.04.2006 Shri Sunil Sahu, counsel for the appellant. None for the respondents. Heard on admission. Appellant preferred an application under Section 25 of the Guardian and Wards Act 1890 (henceforth "the Act") for custody of the ward on the ground that respondent No.2, who is his minor daughter is staying with her mother respondent No.1, who has no source of income and for the welfare of respondent No.2 , appellant is entitled for her custody. Learned trial Court, held that respondent No.2 since her birth is living with her mother, i.e. respondent No.1, and is being maintained by her. Appellant neither endeavor to know about the birth of respondent No.2 nor cared for her welfare. Therefore, vide impugned order dated 23.01.2006, dismissed the application. Learned counsel for the appellant contended that respondent No.2 since her birth is living with her mother Smt Saroj Pandey. Now she has crossed the age of 5 years. Smt Saroj Pandey has no source of income, whereas the appellant possesses sufficient source to maintain respondent No.2. The custody of respondent No.2 with appellant is essential for her welfare. Here, in the instant case, it is apparent that appellant and respondent No.1 are husband and wife, who are living separately. Appellant in various judicial proceedings denied the paternity and made allegations that respondent No.2 is illegitimate child of respondent No.1. It is also evident that appellant, when under maintenance proceeding was ordered to pay	

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maintenance, then only he started paying maintenance. Respondent No.2 since her birth is living in the company of her mother, respondent No.1. So far as source of lively hood is concerned; it is not only the criteria to judge the welfare of a child. Appellant, who has sources, can be compelled through legal process to pay sufficient amount to respondent No.2 for her welfare and maintenance.

Evidently, the welfare of respondent No.2 is with respondent No.1. Therefore, learned court below did not commit any illegality by passing the impugned order disallowing the application filed by the appellant. The order passed by the trial Court does not suffer from any infirmity which may call for any interference by this Court.

The appeal is liable to be dismissed summarily and it is accordingly dismissed.

Sd/-
V.K.Shrivastava
Judge

padma